

1950

c 81 Crown Attorneys Act

Ontario

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CHAPTER 81

The Crown Attorneys Act

1. The Lieutenant-Governor in Council may appoint a ^{Appointment.} Crown attorney for each county and for each provisional judicial district. 1949, c. 21, s. 1.

2. The Lieutenant-Governor in Council may appoint one ^{Assistant Crown attorneys.} or more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting shall have the like powers and perform the like duties as the Crown attorney. 1949, c. 21, s. 2.

3. No person shall be appointed a Crown attorney or ^{Qualification.} assistant Crown attorney or act in either of such capacities who is not a member of the Bar of Ontario. 1949, c. 21, s. 3.

4.—(1) Where the Crown attorney is unavoidably absent ^{Pro tem appointment.} or ill and there is no assistant Crown attorney, a judge of the county or district court for the county or district may appoint a member of the Bar of Ontario to act for the Crown attorney during his absence or illness.

(2) Notice of the appointment containing a statement ^{Notice.} as to the cause thereof shall be sent by the judge to the Attorney-General forthwith after making the appointment.

(3) The Lieutenant-Governor in Council may annul any ^{Power to annul.} such appointment at any time. 1949, c. 21, s. 4.

5.—(1) Except in the County of York every Crown attorney ^{Clerk of the peace.} shall be *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

(2) In the County of York the offices of Crown attorney ^{York County.} and clerk of the peace may be held by different persons.

(3) Where the offices of Crown attorney and clerk of the ^{Court duties.} peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be

performed by the clerk of the county or district court. 1949, c. 21, s. 5.

Remuneration.

6.—(1) Unless it is otherwise provided by the Lieutenant-Governor in Council every Crown attorney shall be entitled to the fees of his office, including the fees received from his office as clerk of the peace.

Commutation of fees.

(2) The Lieutenant-Governor in Council may commute the fees payable to a Crown attorney, including the fees receivable from his office as clerk of the peace, for a fixed annual sum, and may from time to time fix an annual allowance to cover the expenses of his office.

Assistants.

(3) Every assistant Crown attorney shall be entitled to such per diem allowance or such salary as may be fixed by the Lieutenant-Governor in Council.

Pro tem
Crown
attorneys.

(4) Every Crown attorney appointed *pro tem* by a judge of a county or district court shall be entitled to the fees of his office, including the fees receivable from his office as clerk of the peace. 1949, c. 21, s. 6.

Security.

7. Every Crown attorney shall give security for the due performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor in Council directs. 1949, c. 21, s. 7.

Oath of
office.

8. Every Crown attorney and every assistant Crown attorney, before he enters upon his duties, shall take and subscribe before a judge of the county or district court of the county or district for which he is appointed the following oath:

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (or assistant Crown attorney) for the County (or District) of.....without favour or affection to any party: So help me God.

1949, c. 21, s. 8.

Prohibition.

9. No Crown attorney or assistant Crown attorney shall, by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario. 1949, c. 21, s. 9.

Duties.

10. The Crown attorney shall aid in the local administration of justice and perform the duties that are assigned to

Crown attorneys under the laws in force in Ontario, and without restricting the generality of the foregoing, every Crown attorney shall,

- (a) examine informations, examinations, depositions, recognizances, inquisitions and papers connected with offences against the laws in force in Ontario which the magistrates, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof; to examine informations, etc.;
 - (b) conduct, on the part of the Crown, preliminary hearings of indictable offences and prosecutions for indictable offences, to conduct prosecutions;
 - (i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Attorney-General,
 - (ii) at the court of general sessions of the peace,
 - (iii) at the county or district court judges' criminal court, and
 - (iv) before magistrates in summary trials of indictable offences under the *Criminal Code* (Canada), R.S.C., 1927, c. 36.
- in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;
- (c) where a law officer of the Crown or other counsel has been appointed by the Attorney-General, deliver to the Crown officer or other counsel all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel; special Crown counsel;
 - (d) watch over cases conducted by private prosecutors and, without unnecessarily interfering with private cases brought by private prosecutors; cases brought by private prosecutors;

individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;

summary
conviction
matters;

- (e) where in his opinion the public interest so requires, conduct proceedings in respect of any offence punishable on summary conviction;

government
prosecutions;

- (f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental department or agency and conduct such prosecutions to judgment and to appeal, if so instructed;

summary
conviction
appeals;

- (g) where in his opinion the public interest so requires, conduct appeals to the county or district court for offences punishable on summary conviction;

justices of
the peace;

- (h) advise justices of the peace with respect to offences against the laws in force in Ontario;

forms;

- (i) procure the necessary forms for the use of justices of the peace, and supply the same as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and

bail.

- (j) where a prisoner is in custody charged with or convicted of any offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. 1949, c. 21, s. 10.

Magistrates
and justices
to deliver
informa-
tions, etc.,
to Crown
attorney.

11. Where a person is committed for trial to answer a criminal charge the committing magistrate or justice of the peace shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney shall be the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid or complaint made before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being by him required so to do. 1949, c. 21, s. 11.

R.S.C.,
1927, c. 36.

12. Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace, other than those payable by the Province either directly or by way of refund to the county, and remit the same to the Inspector of Legal Offices by cheque payable to the Treasurer of Ontario, quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. 1949, c. 21, s. 12.

Collection
and pay-
ment over
of fees.

13. Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. 1949, c. 21, s. 13.

Annual
returns.

14.—(1) The City of Toronto and the County of York shall have one Crown attorney, who shall be known as the Crown Attorney for the City of Toronto and the County of York, and such assistant Crown attorneys as may be deemed necessary by the Lieutenant-Governor in Council.

Toronto
and York.

(2) The Corporation of the City of Toronto shall provide suitable office accommodation, furniture and stationery, with light and heat, for the Crown attorney, his assistants and staff, to be approved by the Attorney-General, and the expenses so incurred shall be borne and apportioned and paid as part of the expenses of the administration of justice in the County of York. 1949, c. 21, s. 14.

Idem.

15. The Lieutenant-Governor in Council may make regulations,

Regulations.

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental department or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys where a municipality or a governmental department or agency

would be entitled to any fine imposed or any portion thereof;

Rev. Stat.,
c. 379.

- (d) providing that counsel fees collected from defendants under *The Summary Convictions Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental department or agency;
 - (e) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
 - (f) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
 - (g) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
 - (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 21, s. 15; 1950, c. 13, s. 1.
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